

(1) 1481-99-100

ANSWERS

FOR

John Walkingshaw of Borrowfield.

To the Libel at the instance of *Robert Greenlies* in *Glasgow*, and *Robert Yool*, one of the Baillies thereof.

W Hereas there is a Libel Pursued before the Lords of His Majesty's Privy Council, at the instance of the forenamed Persons, against the said *Borrowfield*, founded upon several Ancient Laws against Privy Conventions, and putting on Armour within Burgh, without the Magistrates Licence, and against Convocating and Assembling within Burgh, and for Assisting the Magistrates for suppressing of Tumults: And subsuming, that notwithstanding thereof, the said *Borrowfield* drew his Sword and beat the said *Robert Greenlies*, and by many Execrable Oaths, swore he would kill him without any other Provocation, but that by order of Baillie *Tool*, he had seized Two Horses belonging to *Hugh Hamilton*, for Transporting the Bagage of Colonel *Hamilton's* Regiment, and that he rescued the saids two Horses and sent them to his own Stables of *Borrowfield*; and therefore concluding him guilty of an unwarrantable Opposition to the Magistrates Commands, Beating and Blooding of the Town Officer, Swearing and Prophaning of the Name of GOD.

To which it is Answered, That the Laws Libelled have no Relation to the matter of Fact subsumed, these Laws relating only to the unlawfull Assemblies and Convocations within Burgh, and to the Tumults therefrom arising, but not to any casual Quarrel, though ending in Blows, which is frequent in every Burgh: And as for *Borrowfield* himself, he is no Inhabitant of *Glasgow*, but a Neighbour Heretor, and wears only an ordinary walking Sword, as much for Ornament as Use, and at no time puts on any of the Armour related to in those Acts, and at all occasions gives suitable respect to the Magistrates his Neighbours.

And as to the Fact Libelled, the same is altogether Calumnious, for the Forces were Marched the day before, and the Bagage undoubtedly carried along with them, and *Borrowfield* going home to his own House without any Company but his own Servant, and seeing an Insult made upon *Hamilton* his Tenent, under Cloud of Night, forcing him from his Bed, and carrying away his Horses by Violence without any Warrant for that effect, *Borrowfield* judged it lawfull to Assist his Tenent *Hamilton* in Defending him and his Horses from any, who Acted more like a Robber then a Person under Authority, which he did not pretend, but even upbraided *Borrowfield*, and offered to Beat him with a Rung: In which small Scuffle, if *Borrowfield* have taken his Sword in his hand to Compesce the Insulter his, Insolence, a Justice of Peace might have been sufficiently competent for all that matter, without troubling your Lordships; and *Borrowfield* believes, that the said Insulting Person himself, would never have Complained thereof, if *Dowhill* who must make business for the Town of *Glasgow*, to give him an Errand to *Edinburgh* on their Charge,

Charges at this Juncture, had nor made use of his Name for the end foresaid,

Though *Burrowfield* be Libelled against for opposing the Magistrates in the lawfull exercise of the Government, yet there is no circumstance of his Opposition Libelled upon, nor can be: And if that opposing of the Insulter be the Opposition meant by, *Burrowfield* was innocent, for he did not look upon the Insulter as a Magistrate, nor saw he any Warrant from a Magistrate, nor did any Magistrate speak to him on the Subject: And seeing by the Acts of Parliament 1681, and 1693, The Magistrates of Burrows, are ordained to have a competent Number of Horses in readines for the service of the Forces, *Burrowfield* could not doubt but that the Magistrates of *Glasgow* were accordingly provided; because they used to have a List of all the ordinary Carters and Bagage-Men, and appointed them their Rooms by turns: And it was never heard of, that ever there was so unevenly a cast of the Bagage Horse for one Regiment, as that Fourteen Horses of Sixteen should be put upon *Burrowfield*, his Tenents. Beside, that the Baggage was gone off, and that so the Insulter was doing unwarrantably in the silence of the Night, in Robbing *Hamilton* of his Horses, and the rather because they had been so employed for Six or Seven times successive of before, whereas they ought only to be employed by their turns, and with that discretion, that Carters and Hyers Horse who have no labour be first employed, and those who leave labour, last, and this was in the throng of *Hamiltons* labour.

Whereas the Libel Subsumes, that *Burrowfield* used Execrable Oaths, the Libel is Calumnious, and he is known by his Neighbours to be free thereof, and to abhorre the same: And if at any time in passion an Oath escape, he repeats it seriously, and would never have expected that any good Neighbour would have exposed him to your Lordships on that behalf, which might have been well judged by a Justice of Peace, to whom by their Instructions the Cognition thereof is committed.

In respect of all which, Burrowfield ought to be Assailzied, and the Authers and Fomenters of this groundless Libel condemned in Expenses.

Double of the Libel at the instance of John Walkingshaw of Burrowfield, Robert Turner, Richard Greenleis, James Greenleis, John Armor, William Martain, Thomas Greens, David Watson, and the other Tennents of the said John Walkingshaw.

AGAINST

John Anderson of Dovehill Provost of Glasgow, Robert Yool John Aird Elder, and John Warddrop, Baillies of the said Burgh of Glasgow.

THAT whereby the Rules of Society Laws, Constitution, and Practice of this and all well governed Nations and Kingdoms, all necessary Burdens and Impositions are laid on and exacted by an equal Proportion; so that every Member of the Society, Residenter, and Subject in the Kingdom may bear an equal share; and that no Man be Opprest, but every one bear



bear an equal Burden : As also, By the good and wholesome Laws and Acts of Parliament of this Nation, and particularly the 4th. Act of the 4th. Sess. of this current Parliament, ratifying and confirming the Act of Parliament 1681. and the Act of Privy Council, dated the 14 February 1693 years. It is thereby Statute, and Ordained, That where it shall be necessary, that the Army have use for Baggage-Horses for transporting their Baggage from place to place, That if the Army or Party having use for the said Baggage-Horse, be in a Burgh, that the Horse may be employed and made use of by Order of the Commander of the Party, and the Magistrates of the Burgh jointly : And where the Horses are furnished & made use of in Landwart, by the order of the Commander, and one of the Commissioners of the Supply within the Shire. Likeas, By the Ninth Act of the Seventh Session of this Current Parliament, anent Quartering of Souldiers, The foresaid Act is confirmed, and just and equal Methods laid down, and Penalties determined against those who shall be Guilty in the matter of Quartering : And it is thereby declared, That the same Execution shall be granted for Carriages as for Quartering. As also, By the 45. Chap. Parl. 2^d. Ja. 1. It is Statute, That all Judges do, and execute the Law evenly : And by the 17- Chap. Parl. 6. Ja. 2. It is Statute, That all Officers willfully Trespassing in their Offices, shall tyne the same for Year and Day ; And by the foresaid Act of Privy Council, confirmed by Act of Parliament, as aforesaid. It is Statute, That there shall be payed of Hyre for each Horse, One Shilling Six Pennies for each Mile ; And that it shall not be lawful to keep any Man's Horses longer than one Day. Likeas, By the Act of last Session of Parliament, anent the Security of the persons of the Leidges, It is Statute, That no Man be imprisoned without condescending upon a particular and special Crime ; and that no person be kept and detained in prison after sufficient Baill and Caution is offered for presenting the said person to abide and underly the Law, and that under the Penalty mentioned in the said Act : As also, by the Law and Practique of this Kingdom, The Spulzieing and Masterfully away-taking of Plough Horse in time of Labouring, is a Crime of a high Nature and severely punishable : Yet nevertheless, the said *John Anderson* of *Dovehill*, having shaken off all fear of God, Obedience, and Regard to His Majesty and Government, and the Laws and Acts of Parliament of this Kingdom, and the Rules of Christianity, and Society, He the said *John Anderson*, with *Robert Tool*, *John Aird*, and *John Warddrop*, and one or other of them, conceiving a deadly prejudice, Hatred, Malice, and Envy against the said *John Walkingshaw* of *Barrowfield*, and his Tenents, and snatching all occasions and opportunities for Oppressing the saids Complainers, did upon the day of March last by past, or one or other of the days of the said Month, when the Regiment of Foot under the Command of Collonel *George Hamiltoun* was to March from *Glasgow* ; And when Application was made by the Officers of the said Regiment three Days before their March, that they had need of Sixteen Horses for Transporting their Ladies and Baggage ; The said *John Anderson* and the other Defenders, albeit at that time there was Thirty common Carriers, and a Hundred Hireling Horses, which were constantly employed in such Services, did cause give Advertisement to the common Carriers and Horse Hirers, to keep their Horses out of the way, the Day when the Regiment was to March ; whereas the foresaid Defenders ought to have Proportioned the Number of Horse, and appointed the Carriers and Horse Hirers to have been in readines ; But in stead thereof, The said *John Anderson* and the other persons complained upon, did send to the Complainers Lands, while his, and his Tenents Horses were Plowing, and in the Har-

rows, albeit the Pursuers Lands lyes not within the Jurisdiction of the Magistrats of *Glasgow*, and did Unjustly, Masterfully, and Oppressfully take away Fourteen of the Complainers and his Tenents Horses, whereas the Regiment had only for use Sixteen, and did pass by the common Carriers and Horse Hirers of the Town of *Glasgow*, whose Trade and Imployment it is to furnish Cairts and Horses for transporting Persons and Bagages : And as further Instances of the saids Defenders, their Acts of Oppression, They hunded out, and gave Warrant to their Town Officers, who upon the Day of *March* last by-past came under Cloud of Night, at Eleven a Clock, and brake open the Doors of *Richard Greenleis* and *Hugh Hamiltoun*, Two of the Compleainers Tenents, their Horses, while they were in their Beds, and draged them out of their Beds, and Seised their Horses, and secured them in other Stables, for the space of two Nights, to the great prejudice of the Horses, and the Tennents their Labouring, the Seed lying upon the Ground unharrowed : As also, *John Boner*, one of the Complainers Tenents, having his Horse Ploughing some Land belonging to *John Luke, Dovehills* Brother in Law, was excused from carrying any of the Bagage ; But when after the Regiment was Marched, and no more use for Bagage Horses, it was told *Dovehill*, That this said *John Boner* was one of the Complainers Tenents, the said *John* was committed to Prison untill he should furnish Horses, albeit there was use for them : As also, the said *Robert Tool* one of the Defenders, having called *David Watson*, one of the Complainers, to furnish two Horse for Carrying the Bagage of the said Regiment, the said *David* told the Baillie, that his Horses were Hired by his Master *Burrowsfield*, and drawing in his Masters Plough : Nevertheless, the said *Robert Tool* Baillie, did most wrongously, and unjustly commit the said *David Watson* to prison untill he should furnish two Horses upon his own expenses, and continued the said *David* in prison, albeit the Complainer his Master offered to Baill him in the Terms of the Act of Parliament, as appears by Instruments taken thereupon. Likens, the Complainers Tennents Horses being so Masterfully prest, were by the Direction of the saids Defenders, carried not only to *Kilspith*, the first days Journey, but likeways to *Falkirk*, contrair to the Act of Parliament and expresse use and practice in the like case, and when the Tenents Cairts and Horses were returned instead of receiving Three pound *Scots* for each Cairt, as constant use is ; there was no more given to them but Two Shilling *Starline* ; By all which it is evident, That the said *John Anderson* and the other persons above complained upon, are Guilty of manifest Oppression, Injustice and Crooked Judgement, and of the Breach of the Rules and Laws of Society, and of the Acts of Parliament, and Constitutions of this and all well governed Nations, which being proven, the fore-named Defenders, and ilke one of them, ought not only to be decerned to make up and repair the Damages and Losses sustained by the said Complainers and his Tenents, and to pay the Penalties & Fines contained in the Act of Parliament anent wrongous Imprisonment, and to Loss and Tyne the Offices of Magistrats in not judging evenly ; But also further Punish'd in their Persons and Goods, to the Terror of others to do the like in time to come, &c.



